



# House of Representatives

## File No. 992

General Assembly

January Session, 2009

**(Reprint of File No. 66)**

Substitute House Bill No. 6306  
As Amended by House Amendment  
Schedules "A" and "B"

Approved by the Legislative Commissioner  
May 21, 2009

**AN ACT ESTABLISHING A CODE OF CONDUCT FOR THE  
TRANSACTIONS BETWEEN NATURAL GAS DISTRIBUTION  
COMPANIES AND THEIR AFFILIATES, PREVENTING PROPANE  
TERMINATIONS FOR CERTAIN CUSTOMERS AND CONCERNING  
THE STATE'S ENERGY ASSESSMENT.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Subsection (a) of section 16-47 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective from*  
3 *passage*):

4 (a) As used in this section [,] and section 2 of this act, (1) "holding  
5 company" means any corporation, association, partnership, trust or  
6 similar organization, or person which, either alone or in conjunction  
7 and pursuant to an arrangement or understanding with one or more  
8 other corporations, associations, partnerships, trusts or similar  
9 organizations, or persons, directly or indirectly, controls a gas, electric,  
10 electric distribution, water, telephone or community antenna television  
11 company, [. As used in this section,] and (2) "control" means the  
12 possession of the power to direct or cause the direction of the

13 management and policies of a gas, electric, electric distribution, water,  
14 telephone or community antenna television company or a holding  
15 company, whether through the ownership of its voting securities, the  
16 ability to effect a change in the composition of its board of directors or  
17 otherwise, provided, control shall not be deemed to arise solely from a  
18 revocable proxy or consent given to a person in response to a public  
19 proxy or consent solicitation made pursuant to and in accordance with  
20 the applicable rules and regulations of the Securities Exchange Act of  
21 1934 unless a participant in said solicitation has announced an  
22 intention to effect a merger or consolidation with, reorganization, or  
23 other business combination or extraordinary transaction involving the  
24 gas, electric, electric distribution, water, telephone or community  
25 antenna television company or the holding company. Control shall be  
26 presumed to exist if a person directly or indirectly owns ten per cent or  
27 more of the voting securities of a gas, electric, electric distribution,  
28 water, telephone or community antenna television company or a  
29 holding company, provided the department may determine, after  
30 conducting a hearing, that said presumption of control has been  
31 rebutted by a showing that such ownership does not in fact confer  
32 control.

33 Sec. 2. (NEW) (*Effective from passage*) (a) As used in this section,  
34 "affiliate" means a person, as defined in section 16-1 of the general  
35 statutes, or class of persons that, with a gas company, as defined in  
36 said section 16-1, is under the control of the same holding company, or  
37 a person or class of persons that the Department of Public Utility  
38 Control may, after notice and hearing, find has such a relation to a gas  
39 company conducting business and financial transactions that involve  
40 cross-subsidization or preferential treatment between the company  
41 and such person or class of persons as to make it necessary to protect  
42 ratepayers.

43 (b) The Department of Public Utility Control shall establish a code  
44 of conduct that sets minimum standards for gas company transactions  
45 with affiliates to achieve, at a minimum, the following goals, provided  
46 such code shall not interfere with interactions with regulated affiliates

47 that are consistent with appropriate and efficient business practice or  
48 the public interest:

49 (1) Provide rules for when the purchases or sales of goods or  
50 services between a gas company and an affiliate should be by written  
51 contract based on such factors as the nature, value and term of the  
52 purchase or sale;

53 (2) Provide rules with respect to sharing or giving access to certain  
54 types of customer identifying or commercially sensitive information to  
55 affiliates that may differ between regulated and unregulated affiliates;

56 (3) Provide for a system of records and reporting for transactions  
57 between a gas company and its affiliates;

58 (4) Establish standards to ensure that any payment by a gas  
59 company to any affiliate or from any affiliate to a gas company is  
60 appropriate and reasonable;

61 (5) Provide a standard for avoidance of conflict of interest between a  
62 gas company and affiliates;

63 (6) Ensure that any such transactions shall not have an improper  
64 and adverse impact on the costs or revenues of the gas company, on  
65 the rates and charges paid by gas company customers or on the quality  
66 of service provided by the gas company;

67 (7) Ensure that gas company ratepayers do not subsidize affiliate  
68 operations;

69 (8) Ensure fair, appropriate and equitable standards for purchases,  
70 sales, leases, asset transfers and cost or profit-sharing transactions or  
71 any type of financing or encumbrance involving a gas company and its  
72 affiliates; and

73 (9) Ensure that gas supply and distribution services are provided by  
74 a gas company in an appropriate manner to affiliates and nonaffiliates  
75 alike.

76 (c) In addition to the powers granted to the department in section  
77 16-8c of the general statutes, during a rate proceeding under 16-19 of  
78 the general statutes, the department may summon witnesses from an  
79 affiliate with which a gas company has had direct or indirect  
80 transactions, examine the affiliate under oath and order production,  
81 inspect and audit the books, records or other information relevant to  
82 any transaction that the department has reason to believe has or will  
83 have an adverse impact on the costs and revenues of the affiliated gas  
84 company. Proprietary commercial and proprietary financial  
85 information of an affiliate provided pursuant to this section shall be  
86 confidential and protected by the department as the department deems  
87 appropriate, subject to the provisions of section 1-210 of the general  
88 statutes.

89 (d) Each gas company shall submit to the department records and  
90 such information as the department may require, at intervals  
91 determined by the department and in such form as the department  
92 may order regarding affiliate transactions.

93 (e) The department may, upon its own motion, investigate a gas  
94 company's compliance with the code of conduct, and any such  
95 investigation shall be a contested case, as defined in section 4-166 of  
96 the general statutes.

97 (f) The department may make orders to enforce the code of conduct,  
98 including, but not limited to, cease and desist orders and may levy  
99 civil penalties pursuant to section 16-41 of the general statutes against  
100 entities subject to the code of conduct.

101 (g) The code of conduct shall not prohibit communications  
102 necessary to restore gas company service or to prevent or respond to  
103 emergency conditions.

104 (h) On or before November 1, 2010, the department shall adopt  
105 regulations, in accordance with the provisions of chapter 54 of the  
106 general statutes, to establish the code of conduct in accordance with  
107 subsection (b) of this section, related accounting and reporting

108 requirements and procedures for gas company and affiliate  
109 compliance with this section.

110 (i) Any methodology for the allocation of costs between a gas  
111 company and other companies under the control of the same holding  
112 company currently approved by, or under current orders issued by,  
113 the Securities and Exchange Commission under the Public Utility  
114 Holding Company Act of 1935 or the Federal Energy Regulatory  
115 Commission under the Public Utility Holding Company Act of 2005,  
116 shall be entitled to a rebuttable presumption of reasonableness.  
117 Charges rendered to a gas company by an affiliate that is a traditional  
118 centralized service company shall be at cost and entitled to a rebuttable  
119 presumption of reasonableness.

120 Sec. 3. (NEW) (*Effective from passage*) (a) No propane supplier shall  
121 terminate service for nonpayment to any eligible residential propane  
122 customer living at a location served by ten or more vapor meters for  
123 central heating purposes (1) on a Friday, Saturday, Sunday, legal  
124 holiday, the day before a legal holiday, or less than one hour before  
125 such propane supplier's offices close for the day, (2) without fourteen  
126 days' written notice of such pending termination, including the date of  
127 termination and steps a customer can take to reinstate service, to the  
128 resident customer and the owner of record, and (3) for customers who  
129 provide documentation that they have applied for energy assistance,  
130 between November first and May first. A propane supplier may collect  
131 finance charges on past due balances not to exceed one and one-half  
132 per cent per month. If a propane supplier determines that a dangerous  
133 condition exists, such propane supplier may terminate any service at  
134 any time without notice.

135 (b) As used in this section, (1) "eligible residential propane  
136 customer" means a residential propane customer (A) who receives  
137 local, state or federal public assistance, (B) whose sole source of  
138 financial support is Social Security, Veterans' Administration or  
139 unemployment compensation benefits, (C) who is head of the  
140 household and is unemployed, and the household income is less than

141 three hundred per cent of the poverty level determined by the federal  
142 government, (D) who is seriously ill or who has a household member  
143 who is seriously ill, (E) whose income falls below two hundred per  
144 cent of the poverty level determined by the federal government, or (F)  
145 whose circumstances threaten a deprivation of food and the necessities  
146 of life for himself or dependent children if payment of a delinquent bill  
147 is required; and (2) "household income" means the combined income  
148 over a twelve-month period of the customer and all adults, except  
149 children of the customer, who are and have been members of the  
150 household for six months, or more.

151 Sec. 4. Section 16a-3a of the general statutes is repealed and the  
152 following is substituted in lieu thereof (*Effective from passage*):

153 (a) The electric distribution companies, in consultation with the  
154 Connecticut Energy Advisory Board, established pursuant to section  
155 16a-3, shall review the state's energy and capacity resource assessment  
156 and develop a comprehensive plan for the procurement of energy  
157 resources, including, but not limited to, conventional and renewable  
158 generating facilities, energy efficiency, load management, demand  
159 response, combined heat and power facilities, distributed generation  
160 and other emerging energy technologies to meet the projected  
161 requirements of their customers in a manner that minimizes the cost of  
162 such resources to customers over time and maximizes consumer  
163 benefits consistent with the state's environmental goals and standards.

164 (b) On or before January 1, 2008, and [annually] biennially  
165 thereafter, the companies shall submit to the Connecticut Energy  
166 Advisory Board an assessment of (1) the energy and capacity  
167 requirements of customers for the next three, five and ten years, (2) the  
168 manner of how best to eliminate growth in electric demand, (3) how  
169 best to level electric demand in the state by reducing peak demand and  
170 shifting demand to off-peak periods, (4) the impact of current and  
171 projected environmental standards, including, but not limited to, those  
172 related to greenhouse gas emissions and the federal Clean Air Act  
173 goals and how different resources could help achieve those standards

174 and goals, (5) energy security and economic risks associated with  
175 potential energy resources, and (6) the estimated lifetime cost and  
176 availability of potential energy resources.

177 (c) Resource needs shall first be met through all available energy  
178 efficiency and demand reduction resources that are cost-effective,  
179 reliable and feasible. The projected customer cost impact of any  
180 demand-side resources considered pursuant to this subsection shall be  
181 reviewed on an equitable bases with nondemand-side resources. The  
182 procurement plan shall specify (1) the total amount of energy and  
183 capacity resources needed to meet the requirements of all customers,  
184 (2) the extent to which demand-side measures, including efficiency,  
185 conservation, demand response and load management can cost-  
186 effectively meet these needs, (3) needs for generating capacity and  
187 transmission and distribution improvements, (4) how the development  
188 of such resources will reduce and stabilize the costs of electricity to  
189 consumers, and (5) the manner in which each of the proposed  
190 resources should be procured, including the optimal contract periods  
191 for various resources.

192 (d) The procurement plan shall consider: (1) Approaches to  
193 maximizing the impact of demand-side measures; (2) the extent to  
194 which generation needs can be met by renewable and combined heat  
195 and power facilities; (3) the optimization of the use of generation sites  
196 and generation portfolio existing within the state; (4) fuel types,  
197 diversity, availability, firmness of supply and security and  
198 environmental impacts thereof, including impacts on meeting the  
199 state's greenhouse gas emission goals; (5) reliability, peak load and  
200 energy forecasts, system contingencies and existing resource  
201 availabilities; (6) import limitations and the appropriate reliance on  
202 such imports; and (7) the impact of the procurement plan on the costs  
203 of electric customers.

204 (e) The board, in consultation with the regional independent system  
205 operator, shall review and approve or review, modify and approve the  
206 proposed procurement plan as submitted not later than one hundred

207 twenty days after receipt. For calendar years 2009 and thereafter, the  
208 board shall conduct such review not later than sixty days after receipt.  
209 For the purpose of reviewing the plan, the Commissioners of  
210 Transportation and Agriculture and the chairperson of the Public  
211 Utilities Control Authority, or their respective designees, shall not  
212 participate as members of the board. The electric distribution  
213 companies shall provide any additional information requested by the  
214 board that is relevant to the consideration of the procurement plan. In  
215 the course of conducting such review, the board shall conduct a public  
216 hearing, may retain the services of a third-party entity with experience  
217 in the area of energy procurement and may consult with the regional  
218 independent system operator. The board shall submit the reviewed  
219 procurement plan, together with a statement of any unresolved issues,  
220 to the Department of Public Utility Control. The department shall  
221 consider the procurement plan in an uncontested proceeding and shall  
222 conduct a hearing and provide an opportunity for interested parties to  
223 submit comments regarding the procurement plan. Not later than one  
224 hundred twenty days after submission of the procurement plan, the  
225 department shall approve, or modify and approve, the procurement  
226 plan. [For calendar years 2009 and thereafter, the department shall  
227 approve, or modify and approve, said procurement plan not later than  
228 sixty days after submission.]

229 (f) On or before September 30, 2009, and every two years thereafter,  
230 the Department of Public Utility Control shall report to the joint  
231 standing committees of the General Assembly having cognizance of  
232 matters relating to energy and the environment regarding goals  
233 established and progress toward implementation of the procurement  
234 plan established pursuant to this section, as well as any  
235 recommendations for the process.

236 (g) All electric distribution companies' costs associated with the  
237 development of the resource assessment and the development of the  
238 procurement plan shall be recoverable through the systems benefits  
239 charge.



This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-47(a)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	16a-3a

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

***State Impact:*** See Below

***Municipal Impact:*** None

### ***Explanation***

This bill requires the Department of Public Utility Control (DPUC) to establish a code of conduct setting minimum standards for transactions between gas companies and affiliates. It allows DPUC to impose civil penalties of up to \$10,000 for each violation of the code. The amount of penalties that would be collected is unknown at this time.

House "A" makes modifications that will not result in a fiscal impact.

House "B" makes additional changes regarding propane dealer terminations and integrated resources assessments from electric companies. There is no anticipated fiscal impact associated with the amendment.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 6306 (as amended by House “A” and “B”)\******AN ACT ESTABLISHING A CODE OF CONDUCT FOR THE  
TRANSACTIONS BETWEEN NATURAL GAS DISTRIBUTION  
COMPANIES AND THEIR AFFILIATES.*****SUMMARY:**

This bill requires the Department of Public Utility Control (DPUC) to establish a code of conduct setting minimum standards for transactions between gas companies and their affiliates. The bill gives DPUC various investigative powers regarding affiliates and their transactions with gas companies. It allows DPUC to issue enforcement orders against entities subject to the code, including cease and desist orders, and impose civil penalties of up to \$10,000 per violation of the code. DPUC must adopt regulations by November 1, 2010 establishing the code and related accounting and reporting requirements and procedures.

The bill limits when propane dealers can terminate service to eligible residential customers for nonpayment of their bills. These limits are similar to those that apply to electric and natural gas utilities under current law.

The bill requires electric companies to submit integrated resources assessments by January 1 of every even-numbered year, rather than every year.

\*House Amendment “A” (1) modifies the types of affiliates that are subject to the code of conduct; (2) precludes the code from interfering with interactions that are consistent with appropriate and efficient business practice or the public interest; and (3) delays, by one year,

when DPUC must adopt the regulations establishing the code.

\*House Amendment "B" adds the propane and integrated resources assessment provisions.

EFFECTIVE DATE: Upon passage

### **CODE OF CONDUCT**

Under the bill, DPUC must establish a code of conduct setting standards for gas company transactions with its affiliates to achieve specified goals. The bill defines a "gas company affiliate" as an entity or class of entities that (1) is under the control of a gas company holding company or (2) DPUC finds, after notice and hearing, has a relationship to a gas company conducting business and financial transactions that involve cross-subsidization or preferential treatment between the company and the affiliate that makes it necessary to protect ratepayers.

The code must set minimum standards for gas company transactions with their affiliates. The code must provide rules:

1. for when the purchases or sales of goods or services between a gas company and an affiliate should be by written contract based on such factors as the nature, value, and term of the purchase or sale and
2. with respect to sharing or giving access to certain types of customer-identifying or commercially sensitive information to affiliates that may differ between regulated and unregulated affiliates.

The code must provide for:

1. a system of records and reporting for transactions between a gas company and its affiliates and
2. a standard for avoiding conflicts of interest between a gas company and affiliates.

In addition, the code must ensure:

1. that transactions between the company and its affiliate do not have an improper and adverse impact on the company's costs or revenue, customer rates and charges, or on the quality of service provided by the company;
2. that gas company ratepayers do not subsidize affiliate operations;
3. fair, appropriate, and equitable standards for purchases, sales, leases, asset transfers, and cost or profit-sharing transactions or any type of financing or encumbrance involving a gas company and its affiliates; and
4. that gas supply and distribution services are provided by a gas company in an appropriate manner to affiliates and nonaffiliates alike.

Finally, the code must establish standards to ensure that any payment by a gas company to any affiliate or from any affiliate to a gas company is appropriate and reasonable.

The code cannot prohibit communications needed to restore gas service or prevent or respond to emergencies. And it may not interfere with interactions with regulated affiliates that are consistent with appropriate and efficient business practice or the public interest.

The bill requires any method for allocating costs between a gas company and other companies under the control of the same holding company currently approved by, or under current orders issued by, the Securities and Exchange Commission or the Federal Energy Regulatory Commission under relevant federal law to be entitled to a rebuttable presumption of reasonableness. (By law, charges must be reasonable in order to be recoverable in rates.) Under the bill, charges rendered to a gas company by an affiliate that is a traditional centralized service company must be at cost. They also must be

entitled to a rebuttable presumption of reasonableness.

### **INVESTIGATORY POWERS REGARDING GAS COMPANY AFFILIATES**

DPUC, on its own motion, may investigate a gas company's compliance with the code. DPUC must conduct these investigations as contested cases, a quasi-judicial proceeding.

The bill allows DPUC, in the course of a rate case, to:

1. summon witnesses from an affiliate with which a gas company has had direct or indirect transactions;
2. examine the affiliate under oath; and
3. order production, inspection, and audit of the affiliate's books, records, or any type of information that the department has reason to believe has or will have adverse impact on the gas company.

Proprietary commercial and financial information of affiliates is subject to the protections of the Freedom of Information Act, as DPUC considers appropriate.

Each gas company must submit to DPUC records and information on affiliate transactions as DPUC requires, at intervals it requires, and in the form it specifies.

### **PROPANE DEALER TERMINATIONS**

The bill restricts when propane may terminate service to eligible residential customers. It applies to service to residential propane customers who meet certain criteria living at a location served by 10 or more vapor meters for central heating purposes. Under the bill, an eligible customer is a propane customer (1) who receives local, state or federal public assistance; (2) whose sole source of financial support is Social Security, Veterans' Administration or unemployment compensation benefits; (3) who is an unemployed head of household whose household income is less than 300%, and any individual whose

income is below 200% of the federal poverty level; (4) who is seriously ill or who has a household member who is seriously ill; or (5) whose circumstances threaten a deprivation of food and the necessities of life for himself or herself or dependent children if payment of a delinquent bill is required. Household income is the combined income over a 12-month period of the customer and all adults, except the customer's children, who are and have been members of the household for six months or more.

The bill bars terminations for all of these customers (1) on a Friday, Saturday, Sunday, legal holiday, the day before a legal holiday, or less than one hour before the supplier's offices close for the day and (2) without 14 days' written notice of the termination, including the date of termination, and steps a customer can take to reinstate service. The notice must go to the customer and the owner of record (presumably of the property). In addition, the bill prohibits terminations between November 1 and May 1 for customers who provide documentation that they have applied for energy assistance.

A propane supplier may collect finance charges of up to 1.5% per month on past due balances. A supplier may terminate any service at any time without notice if it determines that a dangerous condition exists.

## **BACKGROUND**

### ***Integrated Resources Assessment***

By law, the assessment covers (1) the energy and capacity requirements of customers for the next three, five, and 10 years; (2) how best to eliminate growth in electric demand; (3) how best to level electric demand in the state by reducing peak demand and shifting demand to off-peak periods; (4) the impact of current and projected environmental standards, such as those related to greenhouse gas emissions and the federal Clean Air Act goals and how different resources could help achieve those standards and goals; (5) energy security and economic risks associated with potential energy resources; and (6) the estimated lifetime cost and availability of

potential energy resources.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 20 Nay 0 (02/26/2009)

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (04/14/2009)

Government Administration and Elections Committee

Joint Favorable

Yea 11 Nay 0 (04/23/2009)